

## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751  
Item #21

### PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

DIVISION OF WATER AND AUDITS  
Water and Sewer Advisory Branch

RESOLUTION NO. W-4976  
February 27, 2014

### R E S O L U T I O N

**(RESOLUTION W-4976), THIS RESOLUTION ADOPTS DROUGHT PROCEDURES FOR WATER CONSERVATION, RATIONING AND SERVICE CONNECTION MORATORIA.**

---

#### **SUMMARY**

With this Resolution the California Public Utilities Commission (Commission) adopts drought procedures based upon Standard Practice U-40-W<sup>1</sup> (SP 40), which prescribes the process to establish Tariff Rule 14.1, by which water utilities can introduce voluntary conservation measures, and Schedule 14.1<sup>2</sup>, which provides for mandatory rationing if voluntary measures do not yield the necessary reduction in consumption, or in circumstances of prolonged or severe drought. The procedures attached as Attachment A are based upon SP 40 and have been updated with modifications from Commission findings from previous proceedings.

On January 17, 2014, following the driest year experienced by the state in over 100 years, the Governor proclaimed a drought emergency and directed state officials to assist farmers and communities that are economically impacted by dry conditions, and

---

<sup>1</sup> SP 40 outlines the general procedure for utilities to request and implement Tariff Rule 14.1 and Schedule 14.1. Rule 14.1 is implemented in response to a utility's request for voluntary rationing from customers in order to reduce consumption. This may be accomplished by voluntary compliance with water use restrictions.

<sup>2</sup> Schedule 14.1 is activated in response to a declaration of a water shortage by a utility or in response to a governing agency such as a water wholesaler or Water District declaring a water shortage and imposing mandatory rationing on a utility that may result in the utility's reduction of customer water allocations based on a percentage of the customer's historical usage.

## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

sought to ensure that the state can respond if Californians face drinking water shortages.

### **BACKGROUND**

In an effort to share information and promote consistency in regulatory compliance for water and sewer companies, the Commission's Division of Water and Audits (DWA) prepares standard practices describing the regulatory background and procedures for most of its major requirements and processes. SP 40 outlines the process for a utility to establish Rule 14.1 for voluntary conservation measures and to establish and activate Schedule 14.1 for mandatory rationing. SP 40 was last revised in 2009. At that time a workshop was held to discuss the proposed changes, the subsequent draft was mailed to all parties for comments, and the comments were incorporated into the revised document, which was circulated one more time. After making additional revisions, DWA issued SP 40 on March 30, 2009.

In Resolution (Res.) W-4781, dated August 20, 2009, the Commission directed DWA to work with Legal Division to draft a revised SP 40 for Commission review and approval. The revised SP 40 was to (1) contain revisions to be consistent with the requirements of Res. 4781, and (2) provide sufficient standards as to which advice letters can be approved such that most advice letters authorized by SP 40 can be resolved by staff ministerial action consistent with General Order 96-B, Rule 7.6.1. Subsequently, on March 24, 2011, the Commission adopted Decision (D.) 11-03-048<sup>3</sup>, which further defined its drought response procedures and its requirements for imposing moratoriums on new or expanded water service.

The revisions to SP 40 are based upon the Commission's findings from Res. W-4781 and D.11-03-048. Res. W-4781 Finding and Conclusion Number 30 states: "The Division

---

<sup>3</sup> See Application No. 10-05-020

## **PROPOSED RESOLUTION**

Resolution W-4976

Agenda ID #12751

DWA/RSK/BMD/JB5/KCB/jp4

of Water & Audits should revise STANDARD PRACTICE U-40-W to conform with the modifications outlined in this resolution..." The modifications include:

### **Filing Requirements**

Determining if the state is in a drought can be very difficult since heavy rains late in the spring season can quickly provide a sufficient supply of water. Once a drought proclamation has been made, an expeditious process for staff to approve these advice letters is required because they deal with imminent drought situations, and are time sensitive. It is important that we provide sufficient standards as to which advice letters can be approved such that most advice letters authorized by SP 40 can be approved by staff ministerial action consistent with General Order 96-B, Rule 7.6.1. The filing requirements for establishing Rule 14.1 voluntary conservation efforts and Schedule 14.1 mandatory rationing procedures remain unchanged in the draft circulated for comment.

### **Multi-District Utilities**

Many water utilities secure their water from multiple sources, including water wholesalers, surface water and/or groundwater. A multi-district utility may face different levels of water shortage in its various customer service areas. Commission policy for the recovery of expenses in multi-district utilities generally provides for region-wide amortization of memorandum accounts, as discussed in D.00-06-075 and others. For conservation programs, Res. W-4781 stated that customer allocation should reflect the weighted average reduction in water supply reflected on the total water supplied by wholesalers and the utility's own pumped water. Multi-district utilities will comply with this by including these calculations when requesting implementation of a specific stage and by adding a note in the text of Schedule 14.1 stating, "Activation of the specific stage and amount of reduction will be determined by the total available water supplies, conservation programs, customer usage demand, and customer

## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

adjustments and appeals.” Res. W-4781 orders multi-district utilities to document any water mixes<sup>4</sup> when activating Schedules 14.1 and explain the inequity in spreading costs of a conservation memorandum account to those not affected by Schedules 14.1.

D.11-03-048 included the following Commission findings:

### **1) Concurrent Jurisdiction and Filing**

In A.10-05-020 California-American Water Company (Cal-Am) filed to implement a moratorium on new service connections imposed on the utility by the State Water Resources Control Board.<sup>5</sup> The Commission determined that no application is required if the moratorium is issued by a sister state agency with concurrent jurisdiction. The Commission ruled that an advice letter submitted to DWA, and not a formal application, would have been the proper regulatory filing in this instance to implement the service moratorium.

### **2) Moratorium Exemption**

The Commission directed Cal-Am to establish guidelines acceptable to the State Water Resources Control Board for exemptions based upon demonstrated and compelling public health and safety needs. The Commission specified that exemptions would be limited to institutional, not residential entities.

### **Governor's Drought Proclamation**

With California facing water shortfalls in the driest year in recorded state history, on January 17, 2014, Governor Edmund G. Brown Jr. proclaimed a State of Emergency and directed state officials to take all necessary actions to prepare for these drought conditions (Emergency Drought Declaration). In the Emergency Drought Declaration,

---

<sup>4</sup> Mixing water from different sources

<sup>5</sup>The State Water Resources Control Board is charged with overseeing water rights within the state.

## **PROPOSED RESOLUTION**

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

Order Number 1, Governor Brown requested a 20% state-wide reduction in water use. He directed state officials to assist farmers and communities that are economically impacted by dry conditions and to ensure the state can respond if Californians face drinking water shortages. The Governor also directed state agencies to use less water and hire more firefighters and initiated a greatly expanded water conservation public awareness campaign. In addition, the proclamation gives state water officials more flexibility to manage supply throughout California under drought conditions. The Governor has formed a “Drought Task Force” to review expected water allocations, California’s preparedness for water scarcity, and whether conditions merit a further drought declaration and possibly mandatory rationing.

### **NOTICE, SERVICE AND PROTESTS**

On January 24, 2014, DWA mailed a draft of SP 40 to all regulated water utilities and other interested parties. Comments were due on February 13, 2014.

### **DISCUSSION**

The substantive revisions made to SP 40 are based upon Commission Findings from previous proceedings, as discussed in the Background Section of this Resolution. In the preparation of the draft SP 40, DWA made a concerted effort to confine the proposed changes in the draft to the issues this Commission has already reviewed and vetted in order to expedite the adoption of the procedures contained in SP 40 in light of the drought proclamation. The major issue identified in Res. W-4781 regards the delegation to DWA for the approval of new Tariff Rule 14.1 and Schedule 14.1, and the approval for activating these tariffs. This Resolution resolves this issue by delegating authority for both the approval of adding Tariff Rule 14.1 and Schedule 14.1 to the utility’s tariffs, and the activation of these tariffs to DWA.

## **PROPOSED RESOLUTION**

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

Given the Governor's January 17, 2014 Emergency Drought Declaration, all water utilities should add and activate, at a minimum, Tariff Rule 14.1 in their tariffs and call for a voluntary 20% reduction in customer water use. For those utilities with an existing Tariff Rule 14.1, they should immediately notify the Director of the Division of Water and Audits of their intent to activate the voluntary conservation measures in compliance with the Emergency Drought Declaration's Order Number 2 calling on all local urban water suppliers to immediately implement local water shortage contingency plans. Further, water utilities should comply with future directives under the Emergency Drought Declaration for either additional voluntary conservation measures or requirements for mandatory rationing.

### **COMMENTS**

Public Utilities Code Section 311(g)(1) provides that resolutions must generally be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Accordingly, on January 24, 2014, the draft SP U-40 was mailed to all regulated water utilities and other interested parties with comments due on February 13, 2014. The time for comment on the draft SP 40 was shortened pursuant to Rule 14.6(c)(9) of the Rules of Practice and Procedure. This comment period was reduced in light of the need for immediate action due to current drought conditions and the Governor's Emergency Drought Declaration. Comments were received from the Office of Ratepayer Advocates (ORA), the California Water Association (CWA) and California-American Water Company (Cal-Am). The following summarizes the comments received and our response to the comments.

In its comments, ORA requested the following:

## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

**Review Period** – ORA recommends a 3 day review period followed by a meeting of interested parties. Although an additional review may be desirable, the necessity to move forward with adopted rules is important. Furthermore, DWA held a meeting on February 4, 2014, with the Class A and B water utilities (Class A and B water utilities serve approximately 97% of all regulated customers) to have them provide an update on water supply for 2014. Attendees at this meeting indicated that while some districts may have water supply problems, overall supplies appear to be sufficient for this year. Attendees also noted that water wholesalers were not directing mandatory reductions. ORA suggests that the shortened review is appropriate and it would not impact pending rationing declarations.

Due to the unpredictable circumstances of rain, having adequate supplies of water for this year may be sufficient if near-normal rain occurs at the end of 2014 and/or the beginning of 2015. However, California has suffered multi-year droughts in the past and it would be imprudent to rely on future rainfall. Any water supplies retained by immediate conservation efforts could prove critical if the drought continues into 2015. Additionally, SP 40 was developed through workshops with input from all interested parties, and the major changes proposed in Attachment A have been discussed and approved in a previous Commission Resolution and Decision<sup>6</sup>. All other additions are modest in nature, and have been circulated for review with the substantive comments incorporated into the version attached to this Resolution. For these reasons, we find that no additional review is necessary.

**Filing Requirement** – ORA argues that a Tier 2, and not a Tier 1 filing, should be required to activate rationing or to increase the stage of rationing. ORA states that a Tier 1 filing is inconsistent with requirement of California Water Code Section 357. A Tier 1 filing does not provide an adequate check of the complex information that must be analyzed to ensure that rationing is required, and that the specific fines are

---

<sup>6</sup> Res. W-4781 and D.11-03-048

## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

appropriate. ORA believes a request for rationing must include the consideration of the water portfolio of each district and declarations of various water suppliers, that this type of analysis is not “ministerial” and that a Commission Resolution is required. CA Water Code Section 357 requires Commission approval for rationing; however by definition a Tier 1 may go into effect prior to disposition. ORA further states that if a Tier 1 filing is required, the document should re-define Tier 1 to require disposition prior to the proposed tariffs becoming effective. However, ORA realizes that rationing may affect public sanitation and safety, and that there must be a balance between weighing the evidence and moving quickly to avert a supply emergency. ORA suggests that a Tier 2 filing could be used to activate rationing and successive stages.

We disagree with ORA that the analysis required to activate rationing or to increase the stage of rationing is discretionary. The rules we set forth herein provide clear guidance to the utilities and to DWA staff, and advice letters filed under that guidance can be approved or denied as a ministerial matter. Nevertheless, we agree with ORA that it would be more appropriate for such advice letters to be effective only upon approval, rather than pending approval, and therefore they are more properly filed under Tier 2. Tier 2 filing will be required to activate rationing, and to increase the stage of rationing.

**Public Participation** – ORA cites California Water Code Section 351 as requiring a public hearing prior to implementing rationing except in cases of immediate emergency. To comply with 351, ORA requests that the Commission include guidelines for the advance notification of public hearing (ORA suggests notice in a local paper 7 days prior to effect), and require a public hearing before activating rationing and a public hearing before increasing the stage of rationing.

The draft of SP 40 that was circulated for comment required a public hearing at the time Schedule 14.1 (which would activate rationing) is added to a utility’s tariffs. Thus, while the public has an opportunity to comment on rationing implementation, because there may be significant time between adding Schedule 14.1 to the tariff, and activating



## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

rationing using the schedule, the public is likely to believe it did not have an opportunity to be heard.

In order to provide this opportunity, we agree that customers must be notified that rationing is being activated. However, requiring a public hearing before each potential stage of rationing is likely to result in multiple hearings with minimal substantive input after the first meeting. In addition, for utilities with multiple districts, implementing multiple stages of rationing would require substantial numbers of public hearings. In order to balance this need for public input against the potential for an extreme number of public hearings, the Commission will require an initial public hearing for activating rationing or increasing the stage of rationing if no public hearing on this matter has been conducted in the prior 12 months.

### **Require Different Water Use Restrictions at Each Rationing Stage – ORA**

expressed concerns that there was not enough variation between the different stages in rationing as provided in Appendices B and C. For example, the same fines, rationing rates and water use restrictions are in effect in each stage.

The draft of SP 40 that was circulated for comment identified Appendices B and C as samples and should not be construed as required formats or content. Instead each utility shall propose tariffs tailored to the specific needs of its district(s), subject to review by DWA during the disposition of its initial Tier 2 filing as a new tariff. Additional language is added to explain that the samples are not intended as required language but, that each utility to adopt as written or to modify. Language has been added that the utilities are free to design an escalation of water use restrictions as the rationing stages increase.

Several of the comments submitted by CWA and Cal-Am were very similar, and will be grouped together for discussion purposes, they include:

**The Commission Should Not Adopt SP 40** – Both CWA and Cal-Am argue that the standard practices developed by DWA provided procedural guidelines and are not

## PROPOSED RESOLUTION

Resolution W-4976

Agenda ID #12751

DWA/RSK/BMD/JB5/KCB/jp4

Commission policy, and thus is inappropriate for the Commission to adopt such a document. CWA argues that the definition of a DWA standard practice in the Commission's General Order 96-B identifies standard practices as guidelines. CWA further states that SP U-1-W specifies the correct procedure for modifying a standard practice - that changes to a standard practice are finalized and issued by the Director DWA and not the Commission. Cal-Am recommends that SP 40 not be adopted as a stand-alone document but should be attached to a Commission Resolution.

We will not adopt SP 40 as a document, but instead have included the updated drought procedures based upon SP 40 and subsequent Commission orders as shown in Attachment A to this Resolution.

### **Water Companies Should Not be Required to Issue Conduct-Based Fines –**

Both CWA and Cal-Am have concerns with requiring the utilities to impose conduct-based fines, as described in Appendix B and Appendix C. This is partly based on semantics, as CWA and Cal-Am prefer the terms “surcharge” or “overuse premium” instead of “fine” or “penalty”. Both parties believe that including fines (or “overuse premiums”) in the tariffs should be at the sole discretion of the utility. CWA believes that utilities are not the appropriate entity to enforce water use conduct by its customers (conduct based fines or fines for overuse).

As discussed in the response to ORA's comment on rationing stages, Attachment A clarifies that Appendices B and C are samples for the utility's consideration, and that the utility may propose tariffs as appropriate. However, any utility proposing mandatory rationing procedures that do not include any form of fine, penalty, surcharge or overuse premium must explain how mandatory compliance will be achieved. Schedule 14.1 must achieve compliance or it is no different than Rule 14.1 voluntary conservation. DWA will be reviewing the Tier 2 filings to ensure that the utilities' proposed procedures are adequate to achieve compliance.

## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

**Public Hearings** – CWA states that draft SP 40 contained internal inconsistencies regarding public hearings, and requests that the document should clarify when public hearings are required.

This is discussed above in response to ORA’s comment and Attachment A has been updated accordingly.

**Modifying an Existing Schedule 14.1** – CWA notes that the circulated SP 40 draft was silent on the filing requirements for modifying an existing Schedule 14.1, and recommends that a Tier 1 advice letter filing would be appropriate.

Attachment A now includes language on modifying existing Schedule 14.1 tariffs; a Tier 2 advice letter filing is required for the same reasons outlined in the Filing Requirement discussion in response to ORA’s comments.

**Memorandum Accounts** – CWA requests that the following points be made clear in the final document: 1) tracking lost revenue from conservation efforts in a memorandum account as this not tied to a utility having a Rule 14.1 or Schedule 14.1 in its tariffs; and 2) utilities with existing Water Revenue Adjustment Mechanism’s (WRAMs) may request a memorandum account to track lost revenue, expenses and fines.

A memorandum account to track lost revenues for utilities with existing WRAMs is a redundant protection against lost revenues associated with reduced sales from voluntary conservation or mandatory rationing. A lost revenue memorandum account to track revenue shortfalls associated with reduced sales from either activation of voluntary conservation measures or a mandatory rationing plant pursuant to a declared drought emergency is available only to utilities that do not have an existing WRAM. Utilities requesting a lost revenue memorandum account should activate either voluntary conservation measures pursuant to Rule 14.1 or mandatory rationing pursuant to Schedule 14.1 before booking revenue shortfalls to the memorandum account. Lost revenues should be tracked only so long as conservation measures are in

## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

effect. Affected utilities should file a Tier 2 advice letter to add the memorandum account to the Preliminary Statements in its tariff.

**Grandfathering Existing Tariffs** –CWA would like clarification that existing pre-approved conservation and rationing tariffs are not made ineffective by any modifications to the samples provided in Appendix B and Appendix C.

As previously discussed, Appendices B and C of attachment A are examples, and any differences do not necessarily make the existing tariff ineffective. However, the existing tariffs must be in agreement as to the advice letter filing requirements, public hearing requirements and sufficient mechanisms to ensure compliance with rationing.

**Appendices B and C Should Not be Considered Minimum Criteria** – CWA would like to strengthen the language clarifying that Appendices B and C are examples for the utility's consideration; CWA offers sample language, and two examples of differences that a utility might want to make. The first example would allow customers to bank the unused portion of their monthly allotment for future use. The second example is for a utility that declines to implement conduct-based fines.

The draft of SP 40 which was circulated for comment identified Appendices B and C as samples these should not be construed as required formats or content. Instead, each utility shall propose tariffs tailored to the specific needs of its district(s), subject to review by DWA during the disposition of its Tier 2 filing as a new tariff. Additional language is added to explain that the samples are not intended as required language but that each utility should rewrite or modify these as necessary. Language has been added that the utilities may design an escalation of water use restrictions as the rationing stages increase.

**Consistent Terminology and Non-Substantive Revisions** – Both CWA and Cal Am note inconsistencies in the use of various language terms.

Attachment A has been revised to use of consistent terms.

## **PROPOSED RESOLUTION**

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

**Flexibility in Terminology** –In its comments Cal-Am called for flexibility to tailor the terms in its tariffs to the needs of its individual service areas. The utility did not provide any examples of the type of flexibility it desired.

## **FINDINGS AND CONCLUSIONS**

1. The California Public Utilities Commission's (Commission) Division of Water and Audits (DWA) prepares standard practices (SP) to promote consistency and compliance for regulated water utilities.
2. Requesting activation or a change in a rationing stage follows from changes mandated from the governing agency or a reduced availability of water from the utility's own supplies.
3. Activation of rationing stages in a Schedule 14.1 is time-sensitive decision whose review and approval can be done by staff on a ministerial basis.
4. In Resolution W-4781 the Commission directed DWA to revise SP U-40-W to conform to the modifications outlined in the Resolution and prepare a draft resolution for the Commission's consideration which would adopt that SP as the process to be used to add and activate Tariff Rule and Schedule 14.1.
5. On January 17, 2014, Governor Edmund G. Brown Jr. proclaimed a State of Emergency in response to severe drought conditions within California.
6. Rules 14.6(a) and (c)(9) of the Commission's Rules of Practice and Procedure allow for reducing or waiving the normally required public review and comment period for a matter that requires a Commission Decision or Resolution due to an

## PROPOSED RESOLUTION

Resolution W-4976

Agenda ID #12751

DWA/RSK/BMD/JB5/KCB/jp4

unforeseen emergency situation. The current drought emergency is an unforeseen emergency situation within the meaning of Rule 14.6(a), and public necessity requires the waiver of the 30-day comment period for this Resolution.

7. A draft SP U-40-W was circulated for public comment on January 24, 2014.
8. Comments were received from the Office of Ratepayer Advocates (ORA), California Water Association (CWA) and California-American Water Company (Cal-Am).
9. A Tier 2 filing should be required for activating rationing and subsequent rationing stages as it provides more time for DWA's review.
10. A public hearing should be required for adding Schedule 14.1 to a utility's tariff, or when rationing is activated or when subsequent rationing stages are activated, but only if no public hearing on rationing has been held in the past 12 months.
11. Adopted procedures for conservation, rationing and service connection moratoria should be appropriate to a utility's district(s), but these procedures should compel customers to comply with conservation, rationing, and service connection moratoria requirements.
12. Rules providing for modification of an existing Schedule 14.1 should be adopted through a Tier 2 advice letter request.
13. A utility should be required to have Rule 14.1 and Schedule 14.1 tariffs to track lost revenue and expenses from conservation efforts.
14. Existing Rule 14.1 and Schedule 14.1 tariffs should not be made void or ineffective by the drought procedures in Attachment A.

## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

15. Appendices B and C in Attachment A are examples and should not be considered as minimum standards.
16. Order Number 1 of the Governor's Emergency Drought Declaration calls upon a voluntary 20% reduction in water use state-wide.
17. Order Number 2 of the Governor's Emergency Drought Declaration calls on all local urban water suppliers to implement their local water shortage contingency plans immediately.
18. All water utilities should activate voluntary conservation measures included in Tariff Rule 14.1.
19. All water utilities should request a voluntary 20% reduction in customer water use.
20. All water utilities that have an existing Rule 14.1 conservation tariff should notify the Director of DWA via a letter in both hard-copy and e-mailed formats that they are activating Rule 14.1 calling for a 20% voluntary reduction in water use.
21. All water utilities that do not have an existing Rule 14.1 conservation tariff should develop a proposed Rule 14.1 for their service territory(s) and then file a Tier 2 advice letter requesting to add Rule 14.1 to their tariffs and to activate Rule 14.1 for a 20% reduction in water use.
22. Utilities requesting a lost revenue memorandum account should activate either voluntary conservation measures pursuant to Rule 14.1 or mandatory rationing pursuant to Schedule 14.1 before booking revenue shortfalls to the memorandum account.

## **PROPOSED RESOLUTION**

Resolution W-4976

Agenda ID #12751

DWA/RSK/BMD/JB5/KCB/jp4

23. Lost revenues should be tracked only so long as conservation measures are in effect.
24. Water utilities should comply with future directives under the Emergency Drought Declaration for either additional voluntary conservation measures or requirements for mandatory rationing.
25. It is not necessary to circulate this resolution for public comment.



## PROPOSED RESOLUTION

Resolution W-4976  
DWA/RSK/BMD/JB5/KCB/jp4

Agenda ID #12751

### **THEREFORE, IT IS ORDERED THAT:**

1. The Drought Procedures for Water Conservation, Rationing and Service Connection Moratoria (formerly Standard Practice U-40-W) as amended by this Resolution in response to comments and attached as Attachment A is approved.
2. This resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on February 27, 2014; the following Commissioners voting favorably thereon:

\_\_\_\_\_/s/\_\_\_\_

Paul Clanon  
Executive Director

**CALIFORNIA PUBLIC UTILITIES COMMISSION**

Division of Water and Audits

**Drought Procedures**

PROCEDURES FOR WATER CONSERVATION,

RATIONING AND SERVICE CONNECTION MORATORIA

**Attachment A**

**SAN FRANCISCO, CALIFORNIA**

**Adopted February 27, 2014**

# INSTRUCTIONS FOR WATER CONSERVATION, RATIONING AND SERVICE CONNECTION MORATORIA

## A—PURPOSE AND SCOPE

1. These drought procedures provide guidance and requirements to the Commission's Division of Water and Audits (DWA) staff, to the public and to regulated water utilities as to steps to be taken when the utility suffers from a water shortage. The three levels of action are voluntary conservation, mandatory rationing and a service connection moratorium.

The procedural steps for adding and activating conservation measures are:

- A utility requesting to add a Rule 14.1 and/or Schedule 14.1 to its tariffs shall file a Tier 2 advice letter;
- Activation of voluntary conservation measures requires notifying the Director of DWA via a letter in both hard-copy and e-mailed formats.
- Activation of mandatory rationing or activating a greater stage of mandatory rationing Schedule 14.1 requires the filing of a Tier 2 advice letter.
- Customer notification for each of the above shall be through bill insert or direct mailing
- A public hearing shall be held prior to a utility adding Schedule 14.1 to its tariffs. A public hearing shall be held prior to activating mandatory rationing **unless a public hearing for drought measures has been held in the prior 12 months\***.

\*Prior to activating Schedule 14.1 mandatory rationing the utility must hold a public hearing, unless a drought-related public hearing was held within the previous 12 months. The public hearing requires notification through a bill insert or direct mailing.

Modifying an existing Schedule 14.1 tariff requires the submittal of a Tier 2 advice letter.

2. Each utility's Tariff Rule 14.1 addresses voluntary conservation that may be requested in the event of a water shortage. It also articulates the process for adding and activating Tariff Schedule 14.1, which addresses mandatory rationing to be enforced if voluntary conservation does not yield the necessary reduction in consumption or in circumstances of prolonged or severe drought.
3. To ensure timely response in time of drought all utilities must file a Tariff Rule 14.1 that includes: (a) a list of "non-essential or unauthorized water use" such as that found in Section E of these procedures, which customers shall be asked to avoid under voluntary conservation; and (b) the process by which the utility will add a Tariff Schedule 14.1 and the provisions to be included in the Tariff Schedule 14.1. Appendix C, "Rule 14.1, Water Rationing Plan," is an **EXAMPLE** of what should be included in such a Tariff Rule 14.1, but the exact content is left to the discretion to the utility, subject to the approval and disposition by DWA.
4. The Tariff Schedule 14.1 must include the criteria for activating mandatory rationing, among other provisions described more fully in Section F of these procedures and in Appendix C, "Schedule 14.1, Water Rationing Plan."

## B—BACKGROUND

5. General Order 103-A and Standard Practice U-22-W, Determination of Water Supply Requirements of Water Systems, address water supply requirements, but supply can be affected temporarily due to drought or decreased production of a utility's wells. When this happens, utilities may have to resort to voluntary conservation or mandatory rationing, or may have to activate a service connection moratorium.
6. Parties may also protest service area extensions (see Standard Practice U-14-W) over concern that the available supplies may be

inadequate to serve the new customers, which would be the equivalent of a service connection moratorium (see Section G).<sup>7</sup>

7. The position of the Commission in overall water supply planning was set forth in Decision 99-04-061, April 22, 1999 (see Appendix A to these procedures).

## C—DEVELOPMENT OF CONSERVATION AND RATIONING

8. In mid-1976, due to a drought, the Commission opened an Order Instituting Investigation (OII, Case No. 10114, June 8, 1976) to determine what actions to take. In early 1977, the Commission issued an emergency decision that allowed water utilities to distribute water conservation kits and to implement cost effective water conservation programs.

9. The Commission was once again faced with drought conditions in mid-1988. The Commission opened OII 89-03-005 that allowed all classes of water utilities to file a water conservation and rationing plan consisting of two distinct parts: Rule 14.1 (a “voluntary conservation” program) and Schedule 14.1 (the mandatory rationing and penalty program). This plan was based primarily upon the Department of Water Resources and Metropolitan Water District’s model plans, but also incorporated aspects of the North Marin Water District, East Bay Municipal Utility District, and California Water Service Company’s existing conservation and rationing plans. The main objective of Rule 14.1 and Schedule 14.1 was to have a plan readily available for any utility that needed conservation or rationing methods. This plan allowed regulated utilities to achieve conservation of 17.5% to 26%.

10. The drought was officially declared over in February 1993 and the OII was closed. Because history shows that droughts occur in California about once every ten years, Rule 14.1 has remained in place. When conditions become severe, the utility may file an

---

<sup>7</sup> In Resolution No. 4154, August 5, 1999, the Sierra Club protested Valencia Water Company’s Advice Letters 84 and 85 for service area extension. The Commission found in the favor of Valencia, that it had adequate supplies, but ordered the utility to file its Water Management Program by application so the long-term water availability issues could be heard.

advice letter to initiate mandatory rationing pursuant to Schedule 14.1.

11. Water Action Plan: In 2005, the Commission's Water Action Plan ("WAP") adopted the principle of efficient use of water and the objective of strengthening water conservation programs to a level comparable to those of energy utilities. The Commission outlined several actions to advance this objective, notably including: to promote metered water service to encourage conservation; to encourage direct participation by all Class A and B water utilities in the California Urban Water Conservation Council ("CUWCC") and to encourage implementation of the Council's Best Conservation Management Practices ("BMP"); and to encourage increasing conservation and efficiency rate designs (such as increasing block rates) where feasible to promote greater conservation.

12. Conservation Order Instituting Investigation: In 2007, the Commission opened an Order Instituting Investigation ("I.07-01-022") to address policies to achieve the Commission's conservation objectives for Class A water utilities. In Phase 1A of I.07-01-022, the Commission set a goal for Class A water utilities of a minimum 3%-6% reduction in per customer or service connection consumption every three years once a full conservation program, with price and non-price components, is in place (see D.08-02-036). In recent years, the Commission has approved conservation oriented rate designs through increasing block rates and conservation programs, such as rebates for water efficient appliances, for many Class A water utilities.

13. In February 2008, the Governor called for a 20 percent reduction in per capita water use statewide by 2020.

14. In June 2008, the Governor issued an Executive Order (S-06-08) that proclaimed a condition of statewide drought and ordered state agencies to take action to address the serious drought conditions and water delivery limitations facing the state. Specifically, the Executive Order directed the Department of Water Resources to coordinate with the Commission to identify investor-owned water utility systems at risk of experiencing

health and safety impacts due to drought conditions and water delivery limitations, and to mitigate such impacts. New legislation mandating water consumption reductions was drafted and utilities needed to take proactive steps to reduce consumption even in the absence of water shortages in their service area.

15. In February 2009, the Governor proclaimed a state of emergency to combat California's third consecutive year of drought, and ordered immediate action to manage the crisis. In the proclamation, the Governor directed all state government agencies to utilize their resources, implement a state emergency plan, and provide assistance for people, communities, and businesses, impacted by the drought. The Governor's order directs various state departments to engage in activities that will provide assistance to people and communities impacted by the drought. If the emergency conditions had not been sufficiently mitigated by March 2009, the Governor would have considered additional steps, which included: 1) the institution of mandatory water rationing and mandatory reductions in water use; 2) reoperation of major reservoirs in the state to minimize impacts of the drought; 3) additional regulatory relief or permit streamlining as allowed under the Emergency Services Act; and 4) other actions necessary to prevent, remedy or mitigate the effects of the extreme drought conditions.

16. As a result of the 2009 drought, Golden State Water Company filed a Tier 2 advice letters to add Tariff Rule 14.1 water conservation measures in their customer service areas. In response to a protest from the Division of Ratepayer Advocates, the Commission issued Resolution W-4781 on August 21, 2009 which directed DWA to incorporate findings from the Resolution and make other updates to Standard Practice U-40 for the Commission to formally adopt.

17. In January 2014, the Governor proclaimed a drought emergency due to the driest year in California in 100 years. Governor Brown directed state officials to assist farmers and communities that are economically impacted by dry conditions and to ensure the state can respond if Californians face drinking water shortages. The Governor asked for a voluntary 20%

reduction in water use and directed state agencies to use less water and hire more firefighters and initiated a greatly expanded water conservation public awareness campaign.

#### D—VOLUNTARY CONSERVATION

18. Voluntary conservation may consist of the steps described in Rule 14.1 (Appendix B), but the actual content is left to the discretion of the utility subject to approval and disposition of DWA. This Tariff Rule should be in the tariff book of every utility. The steps may include those listed in Section E below.

#### E—TYPICAL WATER USE RESTRICTIONS UNDER VOLUNTARY CONSERVATION OR MANDATORY RATIONING

19. The following provisions are **examples** of prohibited, nonessential, and/or unauthorized water use:

- 1) Prohibit nonessential and unauthorized water use, including but not limited to:
  - a) Use of potable water for more than minimal landscaping, as defined in the landscaping regulated of the jurisdiction or as described in Article 10.8 of the California Government Code in connection with new construction;
  - b) Excessive use of water: when a utility has notified the customer in writing to repair a broken or defective plumbing, sprinkler, watering or irrigation system and the customer has failed to effect such repairs within five business days, the utility may install a flow restriction device;
  - c) Use of potable water which results in flooding or runoff in gutters or streets;
  - d) Individual private washing of cars with a hose except with the use of a positive action shut-off nozzle. Use of potable water for washing commercial aircraft, cars, buses, boats, trailers, or other commercial vehicles at any time, except at commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use;
  - e) Use of potable water for washing buildings, structures, driveways, patios, parking lots, tennis courts, or other hard-surfaced areas, except in the cases where health and safety are at risk;
  - f) Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping by means other than drip irrigation, or hand watering without quick acting positive action shut-off nozzles, on a specific



schedule, for example: 1) before 9:00 a.m. and after 5:00 p.m.; 2) every other day; or 3) selected days of the week;

- g) Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes (if street sweeping is not feasible), or to protect the health and safety of the public;
- h) Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses unless no other source of water or other method can be used.
- i) Use of potable water for construction purposes unless no other source of water or other method can be used;
- j) Use of potable water for street cleaning;
- k) Operation of commercial car washes without recycling at least 50% of the potable water used per cycle;
- l) Use of potable water for watering outside plants, lawn, landscape and turf areas during certain hours if and when specified in Schedule No. 14.1 when the schedule is in effect;
- m) Use of potable water for decorative fountains or the filling or topping off of decorative lakes or ponds. Exceptions are made for those decorative fountains, lakes, or ponds which utilize recycled water;
- n) Use of potable water for the filling or refilling of swimming pools.
- o) Service of water by any restaurant except upon the request of a patron; and
- p) Use of potable water to flush hydrants, except where required for public health or safety.

## F—MANDATORY RATIONING

20. Tariff Schedule 14.1-Staged Mandatory Water Rationing, may be requested based on the procedures and requirements detailed in Rule 14.1, Sections B through E (Appendix C).

21. The example of Schedule 14.1 attached in Appendix C **may be modified to fit the needs of the utility and its particular water shortage situation.** The following provisions may apply:

- a. Establish customer water allocations at a percentage of historical usage with the corresponding billing periods of a non-drought year being the base. To the extent possible the utility should recognize past customer conservation efforts in historical usage by establishing daily per capita consumption benchmarks for which mandatory rationing would not apply. For example, if a customer's historical and current usage is at or below 50

gallons per day per capita, then mandatory usage reduction would not be imposed. These benchmarks could be reduced for higher rationing stages.

- b. Establish an allocation of a percentage of historical usage with the corresponding billing periods of a non-drought year being the base for consumption for users of process water (water used to manufacture, alter, convert, clean, grow, heat or cool a product, including water used in laundries and car wash facilities that recycle the water used).
- c. Establish a minimum allocation of a number of Ccf per month (one Ccf is one hundred cubic feet) for any customer regardless of historical usage.

22. Prior to declaration of mandatory rationing, a utility may request the addition of a Schedule 14.1 – Staged Mandatory Water Rationing tariff, via a Tier 2 advice letter with full justification. The utility may not add the Schedule 14.1 until it has been authorized to do so by the Commission as delegated to DWA or other staff authorized by the Commission.

- A staged Schedule 14.1 that has been authorized by the Commission shall remain dormant until triggered by specific conditions detailed in the Schedule 14.1 tariff and utility has requested and received authorization for activating a stage by DWA in response to a Tier 2 advice letter.
- Notice of the Tier 2 advice letter (example shown in Appendix D) requesting activation for Schedule 14.1 mandatory rationing and associated public hearing (if required) shall be provided to customers as a bill insert at the earliest billing cycle possible<sup>8</sup> or through direct mailing, and shall include:
  - i. How penalties (or other instrument of compliance) will be assessed
  - ii. What is the allocation
  - iii. How the allocation was determined
- Fines for non-volumetric non-essential or unauthorized water use infractions (i.e. use of potable water to wash structures or driveways) may consist of flat fee fine; fines for exceeding the volumetric allotment shall consist of a penalty based upon a multiple of the authorized top tier quantity rate applied to all usage exceeding the allotment.
- Utility shall comply with all requirements Sections 350-358 of the California Water Code.

23. In the event that the voluntary conservation measures required by Rule 14.1-Section A are insufficient to control the water shortage and a Stage in the utility's Schedule 14.1 is triggered, the utility shall file a Tier 2 advice letter to

---

<sup>8</sup> In emergency situations the direct mailing may occur after water rationing has been activated; warnings may be provided but no fines or penalties may be assessed until notification has been provided.

request activation of that particular Stage of mandatory rationing, as detailed in its Rule 14.1 and Schedule 14.1.

- The Tier 2 advice letter shall include justification for activating this particular stage of mandatory rationing, as well as set guidelines to the period during which this particular stage of mandatory rationing measures will be in effect.
- When the utility requests activation of a particular Stage, it shall notify its customers as detailed in Appendix B, example of Rule 14.1-Section E.
- If the utility chooses to subsequently activate a different stage, it shall file a separate Tier 2 advice letter.

24. All monies collected by the utility through water use violation fines shall not be accounted for as income but rather booked to a memorandum account to offset authorized expenses incurred and lost revenues from reduced sales due to conservation or rationing. All expenses incurred by utility to activate both Rule 14.1 voluntary conservations and Schedule 14.1 mandatory rationing efforts that have not been considered in a General Rate Case or other proceeding, shall be recoverable by utility if determined to be reasonable by Commission. These monies shall be accumulated by the utility in a separate memorandum account for disposition as directed or authorized from time to time by the Commission.

25. An **example** of a staged mandatory rationing plan is attached as Appendix C.

26. The following link is for an **EXAMPLE** of staged drought rationing programs in another jurisdiction:

- El Paso Water Utilities  
<http://www.epwu.org/conservation/drought.html>

## G—SERVICE CONNECTION MORATORIUM

27. A building permit moratorium is sometimes imposed by the California Department of Public Health or other state agencies. The California Water Code, Section 350 et seq., provides that any public water supplier may, after public notice and hearing, declare a water shortage emergency within its service area whenever it determines that the ordinary demands and requirements of its consumers cannot be satisfied without depleting the water supply to the extent that there would be insufficient water for human consumption, sanitation, and fire protection. After it has declared a water shortage emergency, it must adopt such regulations and restrictions on water delivery

and consumption as it finds will conserve its water supply for the greatest public benefit. Water Code Section 357 requires that suppliers which are subject to regulation by the CPUC shall secure its approval before making such regulations and restrictions effective. This requires an application and Commission decision. Decision 11-03-048 dated March 28, 2011 involved a service connection moratorium issued by the California State Water Resources Board (SWRB). In it the Commission determined that no application is required if the moratorium is issued by a sister state agency with concurrent jurisdiction. The Commission ruled that an advice letter submitted to DWA would have been the proper regulatory filing in this instance.

28. Section 2708 of the Public Utilities Code states:

**2708.** Whenever the commission, after a hearing had upon its own motion or upon complaint, finds that any water company which is a public utility operating within this State has reached the limit of its capacity to supply water and that no further consumers of water can be supplied from the system of such utility without injuriously withdrawing the supply wholly or in part from those who have theretofore been supplied by the corporation, the commission may order and require that no such corporation shall furnish water to any new or additional consumers until the order is vacated or modified by the commission. The commission, after hearing upon its own motion or upon complaint, may also require any such water company to allow additional consumers to be served when it appears that service to additional consumers will not injuriously withdraw the supply wholly or in part from those who theretofore had been supplied by such public utility.

29. To activate a service connection moratorium the utility must:

- a. Hold a public meeting under Section 350 and 351 of the Water Code
- b. Add the following language to each service schedule:

“MORATORIUM

No service shall be provided to any premises not previously served within the \_\_\_\_\_ Service Area as defined on the Service Area Map filed as a part of these tariffs.”

## H—MORATORIUM EXEMPTIONS

30. Some decisions to impose a moratorium contain exceptions. For example in Citizen's Utilities (CUCC) Montara District:

"The moratorium shall not apply to owners of real property who are customers of CUCC on or before the date of this order, or their successors in interest, if any change in the use of their property will not increase their demand upon the system." (D.86-05-078, Ordering Paragraph 3.)

31. D.86-05-078 also provided that prospective customers could seek an exemption from the moratorium by filing an application with the Commission showing that extraordinary circumstances required an exemption.

32. In D.00-06-020, June 8, 2000 the Commission granted an application and authorized Citizens Utilities to install a water service connection to applicant's property at APN 037-278-090 following cessation of service at applicant's property at 888 Ocean Boulevard in Montara. Costs were to be borne by applicant. The order made it clear that water service could not be reinstated at 888 Ocean Boulevard absent a lifting or easing of the moratorium. The standard was that no net additional water would be required from the water utility. Such determinations were also delegated to staff<sup>9</sup>.

33. D.11-03-048 recognized that additional metering was not prohibited as long as it does not prompt an increase in water use; specifically multiunit residential, commercial or industrial sites may currently be served by a single water meter. The installation of additional meters at an existing service will not be viewed as a new service connection provided that the additional metering does not result in an increase in water use. Metering each unit of a multiunit building tends to increase accountability in the use of water and the effectiveness of water conservation requirements

---

<sup>9</sup> D.86-05-078, May 28, 1986, Ordering Paragraph 4.

34. D.11-03-048 also directed the utility to establish guidelines acceptable to the SWRCB for exemptions based upon demonstrated and compelling public health and safety needs. The Commission specified that exemptions would be limited to institutional, not residential entities.

### **I - TRACKING OF LOST REVENUE, EXPENSES ACCRUED AND PENALTY MONIES COLLECTED**

35. Memorandum accounts to track expenses and monies collected by the utility through water use violation fines must be requested through an advice letter, either in conjunction with an advice letter requesting adding Rule 14.1 or Schedule 14.1, or in a stand-alone advice letter. Lost revenues associated with reduced sales as a result of activation of either Tariff Rule 14.1 or Schedule 14.1 for a non-WRAM utility should be tracked in a separate memorandum account for disposition as directed or authorized from time to time by the Commission.

36. Res. W-4781 (Approval with Modifications to Rule 14.1 and Schedule 14.1 Tariffs for a Multi District Utility) involved a utility that did not have a full Water Revenue Adjustment Mechanism (WRAM) in place at the time conservation efforts began. A utility without a WRAM may request adding a memorandum account to track lost revenue associated with reduced sales as a result of activating either voluntary conservation under Rule 14.1 or mandatory rationing under Schedule 14.1 in conjunction with a declared drought in California. The following procedures for amortizing the recovery of the lost revenue memorandum account was approved in Res. W-4781 and this procedure should be used. Before seeking recovery of the memorandum account balance, the utility subtracts from the balance a revenue requirement amount equal to a 20-basis point reduction in the utility's most recently adopted return on equity. Then if necessary, the utility further reduces the amount to be recovered to a level sufficient to ensure that such recovery does not cause

the utility to exceed its authorized rate of return for the period covered by the memorandum account.<sup>10</sup> Further, tracking these dollars for potential recovery is consistent with the direction in which the Commission has been moving: to decouple sales and revenue to remove the disincentive for utilities to implement conservation programs.<sup>11</sup> In previous drought conditions, water utilities were allowed to track lost revenues resulting from their compliance efforts through water conservation programs.

37. The tracking of lost revenues as a result of conservation efforts in a lost revenue memorandum account is tied to the utility having Rule 14.1 or Schedule 14.1 in its tariffs and having activated either Rule 14.1 or Schedule 14.1.

38. Utilities with existing WRAMs should request a memorandum account to only track expenses incurred and penalties collected since the WRAM already provides for lost revenue protection.

## **J - MULTI-DISTRICT UTILITIES**

39. Commission policy for the recovery of expenses in multi-district utilities generally provides for region-wide amortization of memorandum accounts, as discussed in D.00-06-075 and others. For conservation programs, customer allocation should reflect the weighted average reduction in water supply reflected on the total water supplied by wholesalers and the utility's own pumped water. Multi-district utilities will comply with this by including these calculations when requesting activation of a specific stage and by adding a note in the text of Schedule 14.1 stating, "Activation of the specific stage and amount of reduction will be determined by the total available water supplies, conservation programs, customer usage demand, and customer adjustments and appeals." Res. W-4781 orders the utility to document any water mixes when activating Schedules 14.1 and explain the inequity in spreading costs of a conservation memorandum account to those not affected by Schedules 14.1.

40. All monies collected by the utility through water use violation fines and all expenses, including lost revenues, attributed to conservation or rationing activities should be tracked on a district by district basis. A customer in a customer service area (CSA) that does not have an activated Schedule 14.1 should not be forced to pay a surcharge to recover costs that the utility has incurred due to activation of Schedule 14.1. In order to avoid this inequity, utilities should file an advice letter creating sub-

---

<sup>10</sup> This methodology was originally adopted in D.90-08-055 and D.91-10-042 in Investigation (I).89-03-005 and applied again in Resolution W-4751.

<sup>11</sup> This has been most recently articulated in D.09-07-021 in our approval of the Settlement Agreement between the Division of Ratepayer Advocates and California-American Water Company on Conservation Rate Design Issues.

accounts to track the costs and expenses for each CSA from and after the date that Rule 14.1 or Schedule 14.1 is activated for that CSA.



## Appendix A

### The Commission's Role in Water Planning

The Commission issued D.99-04-061 on April 22, 1999 in response to a complaint filed by the Sierra Club against Valencia Water Company regarding the adequacy of its water supply for a proposed service extension. In the decision, the Commission defined its role in water planning:

“The two state agencies primarily responsible for overseeing water planning are the California Department of Water Resources, which manages the State Water Project and produces the California Water Plan, and the State Water Quality Control Board and Regional Water Quality Control Boards which have authority over water allocation and water quality protection.

In addition to the state agencies which have broad planning and management powers, local government also has a part in water use decisions. For example, county boards of supervisors, county water agencies, land use planning agencies, city governments, municipal water districts and many special districts all have a role in the use of water in California.

In this context, the Commission has recognized the futility of one party taking unilateral action to protect a groundwater basin:

Rehabilitation of the Santa Maria Groundwater Basin is not the responsibility of, and is beyond the physical and financial resources of any single individual, company, or agency. Even if [Southern California Water Company] were to stop drawing from the basin entirely and injected into the basin the entire 7,900 AFY it desires to obtain from the [Central Coast Water Authority], the basin's fundamental problems of declining quantity and water quality would not be solved. Most simply put, the basin's salvation as a water resource requires the immediate, undivided, sincere and selfless attention of all its users.

(Re Southern California Water Company, 48 CPUC2d 511, 519 (D.93-03-066)(emphasis in original).)

The Commission's role is limited to ensuring that each jurisdictional water utility provides its customers with “just and reasonable service, . . . and facilities as are necessary to promote the safety, health, comfort and convenience of its patrons, employees, and the public.” (§ 451.) The Commission has further delineated the service standard in its General Order 103 where it proscribes Standards of Service including water quality, water supply, and water pressure, as well as many other details of service.

The Commission has not, however, dictated to investor-owned utilities what method of obtaining water must be used to meet its present and future responsibility of providing safe and adequate supply of water at reasonable rates. (Southern California Water, 48 CPUC2d at 517.)

This is not to suggest that the Commission ignores issues of water availability in its regulation of water utilities. The Commission requires that all water utilities prepare, file, and update a water management plan which includes identification of water sources as well as consumption projections over 15 years. These plans are updated by the utility as part of its general rate case.”

## Appendix B

### Rule 14.1 Example

**EXAMPLE OF  
RULE 14.1  
VOLUNTARY WATER CONSERVATION PLAN**

**GENERAL INFORMATION**

1. If water supplies are projected to be insufficient to meet normal customer demand, and are beyond the control of the utility, the utility may elect to activate voluntary conservation using the portion of this plan set forth in Section A of this Rule, after notifying the Director of the Commission's Division of Water and Audits of its intent, via a letter in both hard-copy and e-mailed formats. The utility's customers shall be notified of the voluntary conservation measures through a bill insert or direct mailing.
2. Prior to declaration of mandatory rationing by a water wholesaler or government agency, a utility may request adding a Schedule 14.1 – Staged Mandatory Water Rationing tariff, via a Tier 2 advice letter. The utility may request a lost revenue memorandum account at this time.
3. If, in the opinion of the utility, more stringent water measures are required, the utility shall request Commission authorization to activate the staged mandatory rationing measures set forth in Sections B through E.
4. The utility shall file a Tier 2 advice letter to request activation of a particular stage of Schedule 14.1 – Staged Mandatory Water Rationing tariff:
  - a. If a Declaration of Mandatory Rationing is made by utility or governing agency, or
  - b. If the utility is unable to address voluntary conservation levels set by itself, supplier, or governing agency, or
  - c. If the utility chooses to subsequently activate a different stage
5. When Schedule 14.1 is activated and the utility determines that water supplies are again sufficient to meet normal demands, and mandatory rationing measures are no longer necessary, the utility shall seek Commission approval via a Tier 1 advice letter to de-activate the particular stage of mandatory rationing that had been authorized.
6. In the event of a water supply shortage requiring a voluntary or mandatory program, small water utilities shall make available to its customers water conservation kits as required by its version of Rule 20. The utility shall notify all customers of the availability of conservation kits via a bill insert or direct mailers.

**A. CONSERVATION - NON-ESSENTIAL OR UNAUTHORIZED WATER USE**

No customer shall use utility-supplied water for non-essential or unauthorized uses, including but not limited to:

**EXAMPLE OF  
RULE 14.1  
VOLUNTARY WATER CONSERVATION PLAN**

1. Use of potable water for more than minimal landscaping, as defined in the landscaping regulated of the jurisdiction or as described in Article 10.8 of the California Government Code in connection with new construction;
2. Excessive use of water: when a utility has notified the customer in writing to repair a broken or defective plumbing, sprinkler, watering or irrigation system and the customer has failed to effect such repairs within five business days, the utility may install a flow restriction device;
3. Use of potable water which results in flooding or runoff in gutters or streets;
4. Individual private washing of cars with a hose except with the use of a positive action shut-off nozzle. Use of potable water for washing commercial aircraft, cars, buses, boats, trailers, or other commercial vehicles at any time, except at commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use;
5. Use of potable water for washing buildings, structures, , driveways, patios, parking lots, tennis courts, or other hard-surfaced areas, except in the cases where health and safety are at risk;
6. Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping by means other than drip irrigation, or hand watering without quick acting positive action shut-off nozzles, on a specific schedule, for example: 1) before 9:00 a.m. and after 5:00 p.m.; 2) every other day; or 3) selected days of the week;
7. Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes (if street sweeping is not feasible), or to protect the health and safety of the public;
8. Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses unless no other source of water or other method can be used.
9. Use of potable water for construction purposes unless no other source of water or other method can be used;
10. Use of potable water for street cleaning;
11. Operation of commercial car washes without recycling at least 50% of the potable water used per cycle;
12. Use of potable water for watering outside plants, lawn, landscape and turf areas during certain hours if and when specified in Schedule No. 14.1 when the schedule is in effect;
13. Use of potable water for decorative fountains or the filling or topping off of decorative lakes or ponds. Exceptions are made for those decorative fountains, lakes, or ponds which utilize recycled water;
14. Use of potable water for the filling or refilling of swimming pools.

**EXAMPLE OF  
RULE 14.1  
VOLUNTARY WATER CONSERVATION PLAN**

15. Service of water by any restaurant except upon the request of a patron; and
16. Use of potable water to flush hydrants, except where required for public health or safety.

**B. STAGED MANDATORY RATIONING OF WATER USAGE**

1. Prior to declaration of mandatory rationing by a water wholesaler or government agency, a utility may request the addition of a Schedule 14.1 – Staged Mandatory Water Rationing tariff, via a Tier 2 advice letter, with full justification. The utility may not activate Schedule 14.1 until it has been authorized to do so by the Commission as delegated to DWA.
  - a. A staged Schedule 14.1 that has been authorized by the Commission shall remain dormant until triggered by specific conditions detailed in the Schedule 14.1 tariff and utility has requested and received authorization for activating a stage by Commission.
  - b. Notice of the Tier 2 advice letter (example shown in Appendix D) and associated public hearing (if required) shall be provided to customers through a bill insert or a direct mailing.
  - c. Utility shall comply with all requirements of Sections 350-358 of the California Water Code.
  - d. The Tier 2 advice letter requesting the addition of a Schedule 14.1 shall include but not be limited to:
    - i. Proposed Schedule 14.1 tariff, which shall include but not be limited to:
      1. Applicability,
      2. Territory applicable to,
      3. A detailed description of each Stage of Rationing,
      4. A detailed description of the Trigger that Activates each Stage of Rationing,
      5. A detailed description of each water use restriction for each stage of rationing.
      6. Water use violation levels, written warning levels, associated fines, and exception procedures,
      7. Conditions for installation of a flow restrictor,
      8. Charges for removal of flow restrictors, and
      9. Special Conditions

**EXAMPLE OF  
RULE 14.1  
VOLUNTARY WATER CONSERVATION PLAN**

- ii. Justification for, and documentation and calculations in support of plan, including but not limited to each item in B.1.d.i above.
- 2. Number of Stages requested by each utility/district may vary, depending on specifics of water shortage event.
- 3. The utility shall file a Tier 2 advice letter to request activation of a particular stage of Schedule 14.1 – Staged Mandatory Water Rationing tariff:
  - a. If a Declaration of Mandatory Rationing is made by utility or governing agency,
  - b. If the utility is unable to address voluntary conservation levels set by itself or governing agency, or
  - c. If the utility chooses to subsequently activate a different stage.
- 4. The Tier 2 advice letter requesting activation of a Schedule 14.1 shall include but not be limited to:
  - a. Justification for activating this particular stage of mandatory rationing, as well as period during which this particular stage of mandatory rationing measures will be in effect.
  - b. When the utility requests activation of a particular Stage, it shall notify its customers as detailed in Section E, below.
- 5. All monies collected by the utility through water use violation fines shall not be accounted for as income but rather booked to a memorandum account to offset authorized expenses incurred or recovery of lost revenue. Lost revenues associated with reduced sales as a result of activation of either Tariff Rule 14.1 or Schedule 14.1 for a non-WRAM utility should be tracked in a separate memorandum account for disposition as directed or authorized from time to time by the Commission.
- 6. All expenses incurred by utility to activate Rule 14.1 and Schedule 14.1 that have not been considered in a General Rate Case or other proceeding, shall be recoverable by utility if determined to be reasonable by the Commission.
  - a. These monies shall be accumulated by the utility in a separate memorandum account for disposition as directed or authorized from time to time by the Commission.

**EXAMPLE OF  
RULE 14.1  
VOLUNTARY WATER CONSERVATION PLAN**

**C. ENFORCEMENT OF STAGED MANDATORY RATIONING**

1. The water use restrictions of the conservation program, in Section A of these drought procedures, become mandatory when the Schedule 14.1-Staged Mandatory Rationing Program is triggered, the utility files a Tier 2 advice letter requesting activation of a particular stage, and authorization is received from the Commission as delegated to DWA.
  - a. In the event a customer is observed to be using water for any nonessential or unauthorized use as defined in Section A of this rule, the utility may charge a water use violation fine in accordance with Schedule No. 14.1.
2. The utility may, after one written warning, install a flow-restricting device on the service line of any customer observed by utility personnel to be using water for any non-essential or unauthorized use as defined in Section A above.
3. A flow restrictor shall not restrict water delivery by greater than 50% of normal flow and shall provide the premise with a minimum of 3 Ccf/person/month. The restricting device may be removed only by the utility, only after a three-day period has elapsed, and only upon payment of the appropriate removal charge as set forth in Schedule No. 14.1.
4. After the removal of the restricting device, if any non-essential or unauthorized use of water continues, the utility may install another flow-restricting device without written warning. This device shall remain in place until water supply conditions warrant its removal and the appropriate charge for removal has been paid to the utility.
5. Any tampering with flow restricting device by customer can result in fines or discontinuation of water use at the utility's discretion.
6. If, despite installation of such flow-restricting device pursuant to the provisions of the previous enforcement conditions, any such non-essential or unauthorized use of water continues, then the utility may discontinue water service to such customer. In such latter event, a charge as provided in Tariff Rule No. 11 shall be paid to the utility as a condition to restoration of service.
7. All monies collected by the utility through water use violation fines shall not be accounted for as income but rather booked to a memorandum account to offset either authorized expenses incurred or recovery of lost revenues. All expenses incurred by utility to activate Rule 14.1 and Schedule 14.1 that have not been considered in a General Rate Case or other proceeding, shall be recoverable by utility if determined to be reasonable by Commission. These additional monies shall be accumulated by the utility in a separate memorandum account for disposition as directed or authorized from time to time by the Commission.



**EXAMPLE OF  
RULE 14.1  
VOLUNTARY WATER CONSERVATION PLAN**

8. The charge for removal of a flow-restricting device shall be in accordance with Schedule No. 14.1.

**D. APPEAL PROCEDURE**

1. Any customer who seeks a variance from any of the provisions of this voluntary water conservation or mandatory rationing plan shall notify the utility in writing, explaining in detail the reason for such a variation. The utility shall respond to each such request in writing.
2. Any customer not satisfied with the utility's response may file an appeal with the Director of DWA. .
3. If the customer disagrees with such disposition, the customer shall have the right to file a formal complaint with the Commission. Except as set forth in this Section, no person shall have any right or claim in law or in equity, against the utility because of, or as a result of, any matter or thing done or threatened to be done pursuant to the provisions of the voluntary water conservation or mandatory rationing plan.

**E. PUBLICITY**

1. As stated under Section B.1.b and c, when a utility requests the addition of a Schedule 14.1 – Staged Mandatory Water Rationing tariff via a Tier 2 advice letter, it shall provide notice of the Tier 2 advice letter (example shown in Attachment D) and associated public hearing provided to customers through bill inserts or direct mailing, and shall comply with all requirements of Sections 350-358 of the California Water Code (CWC), including but not limited to the following:
  - a. In order to be in compliance with both the General Order 96-B and CWC, the utility shall provide notice via both newspaper and bill insert/direct mailing.
  - b. Utility shall file one notice for each advice letter filed, that includes both notice of the filing of the Tier 2 advice letter as well as the details of the public hearing (date, time, place, etc).
  - c. The public hearing shall be held after the utility files the Tier 2 advice letter and before the Commission authorizes the addition of Schedule 14.1 to the tariff except in cases of emergency water shortages approved by DWA.
  - d. Utility shall consult with Division of Water and Audits staff prior to filing advice letter, in order to determine details of public hearing.
2. In the event that a Schedule 14.1-Staged Mandatory Rationing Plan is triggered, and utility requests activation through the filing of a Tier 2 advice letter, the utility shall notify its customers and provide each customer with a copy of

**EXAMPLE OF  
RULE 14.1  
VOLUNTARY WATER CONSERVATION PLAN**

Schedule 14.1 by means of bill insert or direct mailing. Notification shall take place prior to imposing any fines associated with this plan. If activation of Schedule 14.1 occurs one year or more since the public hearing associated with adding Schedule 14.1 to its tariffs, then the utility shall conduct a public hearing pursuant to California Water Code Section 351 prior to activating the mandatory rationing stage.

3. During the period that a stage of Schedule 14.1 is activated, the utility shall provide customers with updates in at least every other bill, regarding its water supply status and the results of customers' conservation efforts.

# Appendix C

## Schedule 14.1 Example

**EXAMPLE OF  
SCHEDULE 14.1  
STAGED MANDATORY WATER RATIONING**

**NOTE: The various levels of percentage reductions, reduced usage levels, fines, and removal charges shown below are examples that are used for illustrative purposes only. Each utility/district shall propose its own unique amounts for each of these items.**

**A. APPLICABILITY**

1. This schedule applies to all water customers served under all tariff rates schedules authorized by the Commission. It is only effective in times of mandatory rationing, as required by Rule No. 14.1, and only for the period noted in the Special Conditions section below.
2. This schedule shall remain dormant until a specific stage is activated by Commission authorization of a Tier 2 advice letter.
3. When a particular stage of this schedule is activated, the period over which it shall be effective will be added to tariff language.

**B. TERRITORY**

1. This schedule is applicable within the entire territory served by the utility or for a particular CSA for multi district utilities.

**C. STAGES**

1. Stage 1: Mandatory rationing is declared by utility, governing agency, or supplier; or when water supplied to utility is reduced by 0%-10%.
2. Stage 2: Water supply is reduced 10.01%-20% or water restrictions at Stage 1 have not been effective in reducing water usage to prescribed level.
3. Stage 3: Water supply is reduced 20.01% or more or water restrictions at Stage 2 have not been effective in reducing water usage to prescribed level.

Note: a utility may choose to have additional restrictions as the rationing stages increase; the sample used herein applies the same restrictions regardless of stage.

**EXAMPLE OF  
SCHEDULE 14.1  
STAGED MANDATORY WATER RATIONING**

**D.MANDATORY WATER USE RESTRICTIONS AT EACH STAGE**

1. In addition to the water use restrictions listed in utility's Rule 14.1-Section A (which become mandatory when a stage of Schedule 14.1 is activated), the following mandatory restrictions apply to water usage at each stage of mandatory rationing. These reduced usage levels shall be determined based either on the historical average of customer usage of up to three years, a per capita allotment, or other means that account for historical customer conservation efforts:

- a. Stage 1: Customer usage reduced to 90% - 100%.
- b. Stage 2: Customer usage reduced to 80% - 89.99%.
- c. Stage 3: Customer usage reduced to 79.99% or less.

**E.WATER USE VIOLATION FINE**

1. When a stage of this schedule has been activated by Commission authorization, the water use restrictions of the conservation program in Section A of Rule 14.1 as well as those listed in Section D of this tariff, become mandatory. If a customer is seen violating the water usage restrictions, as outlined in Rule No. 14.1 and the Special Conditions below, the customer will be subject to the following fine structure:

First offense:	Written warning
Second offense: (of the same restriction)	\$25
Third offense: (of the same restriction)	\$50
Each additional Offense: (of the same restriction)	\$25 more than the previous fine imposed.

- 2. Offenses for separate water use restrictions will each start at the warning stage.
- 3. Fines for exceeding the allotted volume ration will consist of a multiplier of X<sup>12</sup> times the highest tiered rate in effect for all water used above the allotment.
- 4. The water use violation fine is in addition to the regular rate schedule charges

---

<sup>12</sup> The X represents a multiplier (i.e. 1.2, 1.3, 1.4 etc.).

**EXAMPLE OF  
SCHEDULE 14.1  
STAGED MANDATORY WATER RATIONING**

**F. FLOW RESTRICTOR REMOVAL CHARGE**

The charge for removal of a flow-restricting device shall be:

<u>Connection Size</u>	<u>Removal Charges</u>
5/8" to 1" . . . . .	\$25.00
1-1/2" to 2" . . . . .	\$50.00
3" and larger . . . . .	Actual cost

**G. SPECIAL CONDITIONS**

1. This tariff schedule shall remain in effect for period of six (6) months from the effective date set forth below, or until utility files a Tier 1 advice letter to deactivate specific stage of mandatory conservation.
2. Water use violation fines must be separately identified on each bill.
3. All bills are subject to the reimbursement fee set forth on Schedule No. UF.
4. All monies collected by the utility through water use violation fines shall not be accounted for as income but rather booked to a memorandum account to offset either authorized expenses incurred or recovery of lost revenue. All expenses incurred by utility to activate Rule 14.1 and Schedule 14.1 that have not been considered in a General Rate Case or other proceeding, shall be recoverable by utility if determined to be reasonable by the Commission. These monies shall be accumulated by the utility in a separate memorandum account for disposition as directed or authorized from time to time by the Commission. Lost revenues associated with reduced sales as a result of activation of either Tariff Rule 14.1 or Schedule 14.1 for a non-WRAM utility should be tracked in a separate memorandum account for disposition as directed or authorized from time to time by the Commission.
5. No customer shall use utility-supplied water for non-essential or unauthorized uses, including but not limited to:
  - a. Use of potable water for more than minimal landscaping, as defined in the landscaping regulated of the jurisdiction or as described in Article 10.8 of the California Government Code in connection with new construction;
  - b. Excessive use of water; when a utility has notified the customer in writing to repair a broken or defective plumbing, sprinkler, watering or irrigation system and the customer has failed to effect such repairs within five business days, the utility may install a flow restriction device;
  - c. Use of potable water which results in flooding or runoff in gutters or streets;
  - d. Individual private washing of cars with a hose except with the use of a positive action shut-off nozzle. Use of potable water for washing commercial aircraft, cars, buses, boats, trailers, or other commercial vehicles at any time, except at

**EXAMPLE OF  
SCHEDULE 14.1  
STAGED MANDATORY WATER RATIONING**

commercial or fleet vehicle or boat washing facilities operated at a fixed location where equipment using water is properly maintained to avoid wasteful use;

- e. Use of potable water for washing buildings, structures, , driveways, patios, parking lots, tennis courts, or other hard-surfaced areas, except in the cases where health and safety are at risk;
- f. Use of potable water to irrigate turf, lawns, gardens, or ornamental landscaping by means other than drip irrigation, or hand watering without quick acting positive action shut-off nozzles, on a specific schedule, for example: 1) before 9:00 a.m. and after 5:00 p.m.; 2) every other day; or 3) selected days of the week;
- g. Use of potable water for street cleaning with trucks, except for initial wash-down for construction purposes (if street sweeping is not feasible), or to protect the health and safety of the public;
- h. Use of potable water for construction purposes, such as consolidation of backfill, dust control, or other uses unless no other source of water or other method can be used.
- i. Use of potable water for construction purposes unless no other source of water or other method can be used;
- j. Use of potable water for street cleaning;
- k. Operation of commercial car washes without recycling at least 50% of the potable water used per cycle;
- l. Use of potable water for watering outside plants, lawn, landscape and turf areas during certain hours if and when specified in Schedule No. 14.1 when the schedule is in effect;
- m. Use of potable water for decorative fountains or the filling or topping off of decorative lakes or ponds. Exceptions are made for those decorative fountains, lakes, or ponds which utilize recycled water;
- n. Use of potable water for the filling or refilling of swimming pools.
- o. Service of water by any restaurant except upon the request of a patron; and
- p. Use of potable water to flush hydrants, except where required for public health or safety.

## Appendix D

### Public Hearing Notification Example



Date \_\_\_\_\_

**NOTICE OF PROPOSED STAGED MANDATORY RATIONING PLAN  
AND PUBLIC HEARING**

**WATER UTILITY (WU)** has requested authority from the CALIFORNIA PUBLIC UTILITIES COMMISSION to add/activate a staged mandatory rationing plan (Plan). The proposed Plan would only go into effect when specific criteria, detailed in the Plan, are met. The Water Utility will hold a public hearing on \_\_\_\_\_ at \_\_\_\_\_, located at \_\_\_\_\_, to explain the rate process and receive public input.

**THE COMPANY PROPOSES THE FOLLOWING:**

- STAGED MANDATORY RATIONING PLAN – STAGES 1 THROUGH 3
- **Brief Description of Plan, Stages, Triggers, and Restrictions at each Stage**
- **Brief Description of Water Use Violation Levels, Penalty Criteria**

The Commission staff will make a thorough investigation of the utility's request. Following the investigation, the Commission may grant the utility's request in whole or in part, or may deny it. It may also order the utility to change the design of the Plan from that shown in this notice.

The public hearing is informal and affords customers the opportunity to ask questions and express their views. **WATER UTILITY** will have representatives there to explain the reasons for the proposed Plan.

The public meeting will be held:

**DATE:** \_\_\_\_\_

**TIME:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

Section 351 of the California Water Code provides that except in cases of extreme emergency, such as the failure of a dam, pump or pipeline, a public hearing will be held at which consumers shall have an opportunity to be heard to protest against the declaration of water rationing and to present their respective needs. Customers who would like to provide any other information or comments regarding this requested Plan should write to the Commission at the following address:

California Public Utilities Commission  
Water Utilities Division, Room 3106  
505 Van Ness Avenue, 3<sup>rd</sup> Floor  
San Francisco, CA 94102  
Attention: Program Manager, Water And Sewer Advisory Branch

Responses should mention that they pertain to **WATER UTILITY, ADVICE LETTER #,**  
and should be sent no later than (20) days after this notice is sent.

A copy of **WATER UTILITY'S** filing may be inspected in its business office at:

---

---

Further information may be obtained from the utility at its business office or from the  
Commission at the above address.